

REMARKS

This is in response to the Office Action dated September 10, 2004, and the references cited therewith.

Claim 43 is amended, claims 39-42 and 45-46 are cancelled; as a result, claims 1-38 and 43-44 are now pending in this application.

Double Patenting Rejection

Claims 28, 31, 36-40 and 42-46 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 41-46 of U.S. Serial No. 10/025,183. Pursuant to MPEP 804, applicant requests withdrawal of the provisional rejection.

§102 Rejection of the Claims

Claims 39-42, 45 and 46 were rejected under 35 USC § 102(e) as being anticipated by Mass et al. (U.S. Patent No. 6,675,045). Claims 39-42 and 45-46 have been cancelled herein, and applicant reserves the right to prosecute those claims in a subsequently filed continuation application. Claim 43 has been rewritten in independent form.

§103 Rejection of the Claims

Claims 1-35 were rejected under 35 USC § 103(a) as being unpatentable over Barreras (U.S. Patent No. 5,807,397) in view of Mass et al. (U.S. Patent No. 6,675,045).

The Mass et al. patent (U.S. Patent No. 6,675,045) issued after the filing date of present application and is therefore prior art to the present application, if at all, only under 35 U.S.C. 102(e). In view of the common ownership of the present application and the Mass et al. patent as set forth below, applicant asserts that the latter is not prior art to the present application for purposes of 35 U.S.C. 103 and that the rejection of claims 1-35 has been overcome. Applicant finds no teaching or suggestion in Barreras of the numerous limitations recited by claims 1-35 and therefore believes that the claims are allowable over the prior art of record.

Statement of Common Ownership

Applicant declares that, at the time the present invention was made, the present application and U.S. Patent No. 6,675,045 were owned by the same entity. Since that patent could only otherwise qualify as prior art to the present application under 35 U.S.C. 102(e), it is disqualified as prior art for purposes of section 103(a) under 35 U.S.C. 103(c).

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JEFFREY A. VON ARX ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(847) 432-7302

Date 1-10-05

By

J. Kevin Parker
J. Kevin Parker
Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of January, 2005.

Name

Signature